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02/13/03

\$ GP 1634

EXPRESS MAIL NO. EV215757415US  
Attorney Docket No. XTR004 CIP  
Client/Matter No. 80148.0212.002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Gerdes, et al.

Serial No. 09/944,604

Filed: August 31, 2001

For: NUCLEIC ACID ARCHIVING

Group Art Unit: 1634

Examiner: Ethan Whisenant

CERTIFICATE OF MAILING BY EXPRESS MAIL

To: BOX RESPONSE/FEE  
Commissioner for Patents  
Washington, DC 20231

Sir:

The undersigned hereby certifies that the following documents:

1. Amendment Under 37 C.F.R. § 1.111;
2. Terminal Disclaimer to Obviate a Double Patenting Rejection Over a Prior Patent;
3. Fee Transmittal;
4. Check for \$110.00;
5. Return postcard; and
6. Certificate of Mailing By Express Mail

relating to the above application, were deposited as "Express Mail," Mailing Label No. EV215757415US, with the United States Postal Service, addressed to Box RESPONSE/FEE, Commissioner for Patents, Washington, DC, 20231

Feb. 12, 2003  
Date

*Sarah O'Rourke*  
Mailer

Feb. 12, 2003  
Date

*Sarah O'Rourke*  
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**AMENDMENT UNDER 37 CFR § 1.111**

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**REMARKS**

An Office Action, Paper, No. 9, was issued in the above-referenced application on January 24, 2003. Claims 143-173 pending, claim 143 was rejected, and claims 144-173 were objected to. In response thereto, a Terminal Disclaimer is submitted herewith.

A. Obviousness-type double patenting rejection addressed

The Office Action states that claim 142 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,291,166 ("the '166 patent"). During a telephone conference between the Examiner and the undersigned on February 5, 2003, the Examiner clarified he intended to state that claim 143 is rejected under this doctrine.

In response thereto, a Terminal Disclaimer is being filed with respect to the '166 patent, thereby obviating this rejection.

# FEE TRANSMITTAL for FY 2003

## Complete if Known

Application Number	09/944,604
Filing Date	August 31, 2001
First Named Inventor	John Gerdes
Examiner Name	Ethan Whisenant
Group / Art Unit	1634
Attorney Docket No.	XTR004CIP

AMOUNT OF PAYMENT (\$) (\$110)

### METHOD OF PAYMENT (check one)

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit  
Account  
Number

50-1123

Deposit  
Account  
Name

Hogan & Hartson L.L.P.

- ☒ Charge Any Additional Fee Required Under 37 CFR § 1.16 and 1.17  
☒ Applicant claims small entity status.  
 See 37 CFR 1.27

2. ☒

### Payment Enclosed:

☒ Check ☐ Credit Card ☐ Money Order ☐ Other

### FEE CALCULATION

#### 1. BASIC FILING FEE

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
101 750	201 375	Utility Filing Fee	
106 330	206 165	Design filing fee	
107 520	207 260	Plant filing fee	
108 750	208 375	Reissue filing fee	
114 160	214 80	Provisional filing fee	

SUBTOTAL (1) (\$)

#### 2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
	-20**=	X	
Independent Claims	-3**=	X	
Multiple Dependent			0

\*\*or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code	Small Entity Fee Code	Fee Description
103 18	203 9	Claims in excess of 20
102 84	202 42	Independent claims in excess of 3
104 280	204 140	Multiple dependent claim, if not paid
109 84	209 42	**Reissue independent claims over original patent
110 18	210 9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$)

### FEE CALCULATION (continued)

#### 3. ADDITIONAL FEES

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for ex parte reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 410	216 205	Extension for reply within second month	
117 930	217 465	Extension for reply within third month	
118 1,450	218 725	Extension for reply within fourth month	
128 1,970	228 985	Extension for reply within fifth month	
119 320	219 160	Notice of Appeal	
120 320	220 160	Filing a brief in support of an appeal	
121 280	221 140	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,300	241 650	Petition to revive - unintentional	
142 1,300	242 650	Utility issue fee (or reissue)	
143 470	243 235	Design issue fee	
144 630	244 315	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	
123 50	123 50	Processing fee under 37 CFR 1.17(q)	
126 180	126 180	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 740	246 370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 750	249 375	For each additional invention to be examined (37 CFR § 1.129(b))	
179 740	279 375	Request for Continued Examination (RCE)	
169 900	169 900	Request for expedited examination of a design application	
Other fee (specify)			
Terminal Disclaimer			110

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$110)

### SUBMITTED BY Complete (if applicable)

Name (Print/Type)

Sarah O'Rourke

Registration No.  
(Attorney/Agent)

41,226

Telephone

(720) 406-5385

Signature

Date

Feb 12, 2003